Testimony

Senate Bill 2268

Senate Natural Resources Committee

Thursday, February 3, 2005; 10:30 a.m.

North Dakota Department of Health

Good morning, Chairman Lyson and members of the Senate Natural Resources Committee. My name is Wayne Kern, and I am director of the Division of Waste Management for the North Dakota Department of Health. I am here today to provide testimony in opposition to Senate Bill 2268.

The Department of Health supports recycling and reuse of solid waste and is not opposed to legislation that would further such efforts with respect to waste tires and other waste rubber. However, we have a number of concerns regarding Senate Bill 2268, including implementation, infrastructure, the establishment and use of air pollution credits, and the preclusion of other waste-management options.

The management of scrap tires and other waste rubber is a significant solid waste issue. Improperly managed waste tires can blight the landscape and lower property values. They also pose significant public health, safety and environmental concerns. For example, improperly managed waste tires increase the potential for disease transmission and fires that can result in significant land, air and water pollution.

In North Dakota, waste tires represent a small portion of the total annual waste, estimated at less than 2 percent by weight. Despite this low percentage, waste tires present unique challenges. It is estimated that about 4 million waste tires may be stockpiled or scattered throughout the state. The largest landfills in North Dakota do not dispose of whole tires because they are bulky and difficult to bury. Although many tires are sent to legitimate processors or permitted disposal sites, illegal stockpiles have been found in ravines, fence rows, rented warehouses and ditches, creating environmental and liability issues for property owners, tire generators and political subdivisions.

The following points detail the department's main concerns regarding Senate Bill 2268:

1) The bill requires significant resources for implementation, including a large infrastructure involving four state agencies. If waste tires and other waste rubber are to be further addressed, a simpler and less resource-intensive approach is needed.

2) The bill requires a number of complex technical determinations based on definitions or concepts that are difficult to understand and interpret. Information needed to make these determinations may not be available without conducting technology-specific demonstration projects involving considerable data collection. Examples include added value determinations and determinations related to energy and resource savings.

3) The bill requires the establishment and use of air pollution credits for ranking resource recovery technologies and in seeking credits in other states and countries. To enable use of such credits, the bill also requires pursuit of changes to federal laws or regulations.

   Currently, North Dakota does not have a system for banking or trading air pollution credits. Such a system would require the development of a significant tracking and management system that, in the end, would not be required to meet current federal Clean Air Act requirements. In addition, seeking federal law and regulation changes to enable use of such credits would be an onerous task with little, if any, realistic chance for success.

4) The bill proposes a one-prong approach for addressing waste rubber: the use of processes such as pyrolysis to extract embedded petroleum and other products for sale.

   Waste management strategies should not rely on just one option, but should be broad, flexible and adaptive to local conditions, and should enable an array of practical, feasible and cost-effective options. The Department of Health supports a multi-pronged approach for managing solid waste that includes waste reduction, reuse, recycling, energy recovery, and disposal, if needed, in permitted landfills.

5) The bill requires the Department of Commerce to develop markets for such products. In order for the approach proposed in Senate Bill 2268 to work, sustainable markets would need to be developed for the byproducts of resource recovery processes. Historically, resource recovery processes such as pyrolysis have not been economically sustainable due to the lack of markets for the byproducts. Therefore, a possible outcome of a strategy focused solely on resource recovery processes may be the accumulation of byproducts that may be hazardous, cannot be marketed and could be expensive to dispose.

6) Finally, the bill precludes or makes it extremely difficult to pursue other acceptable management options for waste tires and other waste rubber, such as tire-derived fuel, engineered uses and landfill disposal. Use as fuel represents an important and viable option that could address all waste tires and other waste rubber in the state and region. Also, landfill disposal should be an option for addressing waste rubber

that cannot be feasibly recycled or used for material or energy recovery.

In summary, the Department of Health is not opposed to legislation that would further efforts to address waste tires and other waste rubber in the state; however, because of the reasons stated above, we cannot support this bill. If this matter is to be further addressed in legislation, the department believes that a simpler, less resource-intensive and more workable approach is needed.

This concludes my testimony. I am happy to answer any questions you may have.